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ATTORNEY GENERAL

February 13, 1979

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ARIZONA ATTORNEY GENERAL

Honorable Peter Goudinoff
State Representative
Arizona House of Representatives
Phoenix, Arizona

Re: I79-046 (R79-035)

Dear Representative Goudinoff:

This is in reply to your letter of February 1, 1979 concerning the 55 miles per hour speed limit imposed by A.R.S. § 28-702.01. Your particular concern as we understand it relates to what effect a decision of the Legislature not to extend the expiration date of Section 28-702.01 would have upon the State's speed limits.

Section 28-702.01 was added to the motor vehicle code by chapter 11, Sec. 1, Laws of 1974. However, Section 5 of that enactment provided that Section 1 would expire on July 1, 1975. Two subsequent enactments extended the expiration date, first to July 1, 1977, then to July 1, 1979 (see Chapter 45, Sec. 1, Laws 1975 and Chapter 122, Sec. 1, Laws 1977). As a consequence, unless the Legislature acts in this session the provisions of A.R.S. § 28-702.01 will expire on July 1.

This does not necessarily mean, however, that those highways which are presently posted for a speed limit of 55 miles per hour will have no speed limit. A.R.S. §§ 28-702 and 28-703 would authorize the establishment of a speed limit by respectively, the Director of the State Department of Transportation and local authorities, on "the basis of an engineering and traffic investigation".

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As you recall and as your letter indicated, prior to the enactment of the 55 miles per hour statute (A.R.S. § 28-702.01) some highways in Arizona were signed for speed limits of 75 miles per hour. Presumably, since Section 28-702 and 28-703 were the laws in effect at the time of the enactment of the 55 miles per hour speed limit law, the 75 miles per hour limits then in effect were established by State and local jurisdictions pursuant to the authority of those sections. In the event the Legislature elects not to extend the expiration date of Section 28-702.01, the State and local jurisdictions may rely upon the aforementioned statutory authority to establish and post speed limits on "the basis of . . . engineering and traffic investigation"

If the intent of the Legislature to adjourn sine die earlier than usual this year becomes reality, there would most likely be sufficient time between adjournment and July for State and local jurisdictions to make whatever engineering and traffic investigations may be required to appropriately establish and properly post new speed limits. However, the physical engineering configuration of many highways in Arizona when considered in light of their existing traffic patterns will most likely dictate a speed limit higher than 55 miles per hour.

In the event any speed limit higher than 55 miles per hour is established on any public street or highway in Arizona, the U.S. Secretary of Transportation will be absolutely precluded under existing law from approving any project providing for federal participation in the cost of constructing any street, road or highway in Arizona. See 23 U.S.C.A. § 154, 23 U.S.C.A. § 141, 23 U.S.C.A. § 106, and 23 C.F.R. Pt. 658.

Sincerely,



BOB CORBIN
Attorney General

BC/mm